

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Civil No. 11-CV-3370 (JNE-JSM)

Carol M. Ness, Jay Xiong,
and Timothy J. Peters, individually,
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

Gurstel Chargo, P.A.,
TEM Capital, LLC,
Todd Gurstel, Mitch Chargo,
and John/Jane Does 1-20,

Defendants.

DEFENDANTS'
GURSTEL CHARGO, P.A.,
TEM CAPITAL, LLC,
TODD GURSTEL, AND
MITCH CHARGO
MOTION TO DISMISS SECOND
AMENDED COMPLAINT
PURSUANT TO RULE 12(b)(6)

TO: Plaintiffs Carol M. Ness, Jay Xiong and Timothy J. Peters, by and through their attorney, Douglas J. Nill, Douglas J. Nill, LLC, 1100 One Financial Plaza, 120 South Sixth Street, Minneapolis MN 55402.

MOTION

Defendants Gurstel Chargo P.A., TEM Capital, LLC, Todd Gurstel, and Mitch Chargo, jointly and individually, move the Court for dismissal of Plaintiffs' Second Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim for which relief can be granted.

DATE: December 4, 2012

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By: s/Andrew D. Parker

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